

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA

| | | |
|---------------------------------|---|-----------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | Case No. 1:19-cv-2275 |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| JAMES L. PERRY; GLENDA R. PERRY |) | |
| a/k/a G.R. NORTON-PERRY; and |) | |
| DELAWARE COUNTY TREASURER |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

COMPLAINT

The United States of America, at the direction of a delegate of the Attorney General and with the authorization of a delegate of the Secretary of the Treasury, pursuant to 26 U.S.C. § 7401, brings this civil action to (1) reduce to judgment unpaid federal tax liabilities owed by James L. Perry and Glenda R. Perry a/k/a G.R. Norton-Perry and (2) enforce the federal tax liens against certain real property belonging to them. For its complaint, the United States alleges as follows:

JURISDICTION, PARTIES, AND PROPERTY

1. The district court has jurisdiction pursuant to 26 U.S.C. §§ 7402(a) and 7403, and 28 U.S.C. §§ 1331, 1340, and 1345.
2. The defendant James L. Perry resides in Delaware County, Indiana, within the jurisdiction of this Court.
3. The defendant Glenda R. Perry a/k/a G.R. Norton-Perry, resides in Delaware County, Indiana, within the jurisdiction of this Court.

4. Defendant Delaware County Treasurer, is joined as a party because, as the local taxing authority, it may have a lien or claim an interest in the property described below and to place it on notice of this Court's jurisdiction over the property such that any local tax liens that have priority over federal tax liens under 26 U.S.C. § 6323(b)(6) will be satisfied in a judicial sale under this Court's authority but that the property may not be sold under other procedures during the pendency of this action.

5. The real property upon which the United States seeks to enforce its tax liens is located at 2525 W. Fuson Road, Muncie, Indiana and has a legal description as follows:

A part of the Northwest Quarter of Section 32, Township 20 North, Range 10 East in Monroe Township, Delaware County, Indiana, described as follows: Beginning at a 5/8 inch rebar on the East line of the Northwest Quarter of Section 32, Township 20 North, Range 10 East, said rebar being South 00 degrees 17 minutes 45 seconds West 1574.69 feet (assumed bearing) from a stone at the Northeast corner of said Quarter Section; thence South 00 degrees 17 minutes 45 seconds West 868.10 feet to a metal fence post on the Northerly limited access right of way line of the Muncie By-Pass State Highway; thence South 88 degrees 58 minutes 42 seconds West 626.40 feet along said right-of-way line; thence North 00 degrees 17 minutes 45 seconds East 867.42 feet to a 5/8 inch rebar; thence South 89 degrees 08 minutes 13 seconds East 626.39 feet to the point of beginning, containing 12.47 acres, more or less.

Meaning to describe the property conveyed to James L. Perry and Glenda R. Perry, husband and wife, by warranty deed dated January 11, 2007, and recorded with the Delaware County Recorder as document number 2007R01346, on January 16, 2007.

6. The United States also seeks to enforce its tax liens against James L. Perry and Glenda R. Perry's interest in the Shared Driveway Easement, described in the Shared Driveway Easement Agreement executed on January 11, 2007 and recorded with the Delaware County Recorder as document number 2007R01347, on January 16, 2007, and against James L. Perry and Glenda R. Perry's interest in the Shared Pond Easement, described in the Shared Pond

Easement Agreement executed on January 11, 2007 and recorded with the Delaware County Recorder as document number 2007R01348, on January 16, 2007.

7. “Fuson Property” includes the real property described in paragraph 5 and the easements described in paragraph 6.

COUNT ONE
(Claim Against James L. Perry and G.R. Norton-Perry to
Reduce Income Tax Liabilities to Judgment)

8. A delegate of the Secretary of the Treasury made joint assessments against James L. Perry and G.R. Norton-Perry for income taxes for the periods, on the dates, and in the amounts described below. These liabilities have balances due as of May 20, 2019, including assessed and accrued late-payment penalties under 26 U.S.C. § 6651, penalties for failure to make estimated tax payments under 26 U.S.C. § 6654, and statutory interest, and after applying any abatements, payments, and credits, as follows:

| Tax Period Ending | Assessment Date | Assessment Type | Amount Assessed | Balance Due May 20, 2019 |
|--------------------------|------------------------|----------------------------|------------------------|---------------------------------|
| 12/31/2007 | 11/03/2008 | Tax | \$233,202.00 | \$27,094.95 |
| | 11/03/2008 | Failure to pre-pay penalty | \$748.49 | |
| | 11/03/2008 | Late payment penalty | \$5,990.07 | |
| | 11/03/2008 | Interest | \$5,317.77 | |
| | 02/15/2010 | Fees and collection costs | \$26.00 | |
| | 09/24/2012 | Late payment penalty | \$36,034.42 | |
| | 09/23/2013 | Interest | \$36,189.07 | |
| | 03/16/2015 | Fees and collection costs | \$26.00 | |
| | 11/21/2016 | Interest | \$25,654.50 | |
| | 02/20/2017 | Fees and collection costs | \$2,440.25 | |
| | 11/19/2018 | Interest | \$2,568.63 | |
| 12/31/2008 | 11/16/2009 | Tax | \$161,174.00 | \$178,494.89 |
| | 11/16/2009 | Failure to pre-pay penalty | \$2,987.00 | |
| | 11/16/2009 | Late payment penalty | \$3,990.56 | |
| | 11/16/2009 | Interest | \$2,378.38 | |
| | 02/07/2011 | Fees and collection costs | \$25.00 | |
| | 09/24/2012 | Late payment penalty | \$20,950.44 | |
| | 09/23/2013 | Interest | \$16,011.02 | |
| | 04/13/2015 | Fees and collection costs | \$26.00 | |

| | | | | |
|--------------|------------|----------|-------------|---------------------|
| | 11/21/2016 | Interest | \$15,485.89 | |
| | 11/19/2018 | Interest | \$14,315.36 | |
| Total | | | | \$205,589.84 |

9. Notice of the liabilities described in paragraph 8 was given to, and payment demanded from, James L. Perry and G.R. Norton-Perry.

10. Despite proper notice and demand, James L. Perry and G.R. Norton-Perry failed, neglected, or refused to fully pay the liabilities, and after the application of all abatements, payments, and credits, they remain liable, jointly and severally, to the United States in the amount of \$205,589.84, plus statutory additions and interest accruing from and after May 20, 2019.

11. On May 20, 2010, James L. Perry and G.R. Norton-Perry submitted an offer in compromise pursuant to 26 U.S.C. § 7122 for the income tax periods ending December 31, 2007 and December 31, 2008. The offer in compromise was withdrawn on December 23, 2010.

12. Although a proceeding in court must generally be commenced within ten years after the assessment of the tax, this action has been timely commenced under 26 U.S.C. §§ 6502 and 6503 because the statute of limitations was tolled pursuant to 26 U.S.C. § 6331(k) for the income tax periods ending December 31, 2007 and December 31, 2008 during the time period that the offer in compromise was pending.

COUNT TWO
(Claim Against All Parties to
Enforce Tax Liens Against Real Property)

13. The United States incorporates by reference paragraphs 1 through 12 as if specifically realleged herein.

14. James L. Perry and Glenda R. Perry jointly obtained title to the real property by warranty deed dated January 11, 2007.

15. James L. Perry and Glenda R. Perry jointly acquired their interest in the Shared Driveway by easement record dated January 11, 2007.

16. James L. Perry and Glenda R. Perry jointly acquired their interest in the Shared Pond by easement record dated January 11, 2007.

17. Because James L. Perry and Glenda R. Perry a/k/a G.R. Norton-Perry neglected, refused, or failed to pay the liabilities described in paragraph 8 after notice and demand, federal tax liens arose pursuant to 26 U.S.C. §§ 6321 and 6322 on the dates of the assessments attached to the Fuson Property and James L. Perry and Glenda R. Perry's interest in the Shared Driveway and the Shared Pond (collectively the "Property").

18. Notices of Federal Tax Lien ("NFTL") were filed with the County, Recorder of Delaware County, Indiana, in accordance with 26 U.S.C. § 6323(f) as follows:

| Type of Tax | Tax Period Ending | Date NFTL Filed |
|--------------------|--------------------------|------------------------|
| Income | 12/31/2007 | 01/22/2010; 02/23/2015 |
| Income | 12/31/2008 | 12/28/2010; 02/23/2015 |

19. The United States is entitled to enforce the federal tax liens described in paragraph 18 against the Fuson Property, pursuant to 26 U.S.C § 7403 and to have the Fuson Property sold in a judicial sale (including by a receiver if requested by the United States), free and clear of all claims, liens, or interests of parties, including any rights of redemption, with the proceeds of the sale distributed: first, to pay the costs of sale, including any expenses incurred to secure and maintain the Fuson Property; second, to Delaware County, Indiana, to pay any real estate taxes due and owing which are entitled to priority under 26 U.S.C. § 6323(b)(6); third, to the United States to pay the liabilities described above, except to the extent that the Court determines that another party has a superior right, title, or interest.

WHEREFORE, the plaintiff United States of America requests the following relief:

A. Judgment against the defendant James L. Perry and defendant Glenda R. Perry a/k/a G.R. Norton-Perry, jointly and severally, for income tax liabilities for the periods ending December 31, 2007 and December 31, 2008, in the amount of \$205,589.84, plus statutory additions, and interest pursuant to 26 U.S.C. §§ 6601, 6621, and 6622, and 28 U.S.C. § 1961(c), both accruing from and after May 20, 2019.

B. A determination that the United States has valid and subsisting federal tax liens under 26 U.S.C. §§ 6321 and 6322 securing the liabilities described in paragraph A on the Fuson Property;

C. A determination that the United States is entitled to enforce the federal tax liens securing the liabilities described above pursuant to 26 U.S.C. § 7403 against the Fuson Property by submitting to the court an order for a judicial sale (including by a receiver if requested by the United States), free and clear of all claims, liens, or interests of parties, including any rights of redemption, with the proceeds of the sale distributed: first, to pay the costs of sale, including any expenses incurred to secure and maintain the Fuson Property; second, to the defendant Delaware County, Indiana, to pay real estate taxes due and owing which are entitled to priority under 26 U.S.C. § 6323(b)(6); third, to the United States to pay the liabilities described in paragraph A, except to the extent that the Court determines that another party has a superior right, title, or interest; and

D. The United States of America shall recover its costs, and be awarded such other and further relief as the Court determines is just and proper.

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General
Tax Division, U.S. Department of Justice

/s/ Angela R. Foster
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Of Counsel:

JOSH MINKLER
United States Attorney

Southern District of Indiana

Civil Action No. 1:19-cv-2275

Signature of Clerk or Deputy Clerk

Civil Action No. 1:19-cv-2275

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Southern District of Indiana

Civil Action No. 1:19-cv-2275

Signature of Clerk or Deputy Clerk

Civil Action No. 1:19-cv-2275

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

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Additional information regarding attempted service, etc:

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Civil Action No. 1:19-cv-2275

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 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|---|--|---|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.